

## Message Text

UNCLASSIFIED POSS DUPE

PAGE 01 STATE 100083

64

ORIGIN EB-07

INFO OCT-01 ISO-00 COME-00 EA-09 AGR-10 L-03 CIAE-00

INR-07 NSAE-00 /037 R

DRAFTED BY EB/BP:LSALLAN:CEK

APPROVED BY EB/BP:WBLOCKWOOD

COM/PTO:RBOWIE (SUBS)

EA/ROC:HENGELBRECHT (SUBS)

----- 105031

R 241844Z APR 76

FM SECSTATE WASHDC

TO AMEMBASSY TAIPEI

UNCLAS STATE 100083

E.O. 11652: N/A

TAGS: EINV, TW

SUBJECT: PROPOSED CHANGE IN PATENT POLICY ON CHEMICALS

REF: TAIPEI 2167, STATE 089496

1. FOLLOWING IS THE TEXT OF AN AIDE MEMOIRE PREPARED BY THE U.S. PATENT AND TRADEMARK OFFICE IN CONSULTATION WITH THE DEPARTMENT ON PROPOSED CHANGE IN THE ROC PATENT LAW AS IT AFFECTS CHEMICALS. IF NO OBJECTIONS ARE PERCEIVED THE EMBASSY IS REQUESTED TO PRESENT THE AIDE MEMOIRE AS SOON AS POSSIBLE TO THE APPROPRIATE OFFICIALS OF THE GROC. EMBASSY SHOULD KEEP IN MIND THAT CHANGE REPORTEDLY WILL TAKE EFFECT MAY 1 AND THEREFORE AIDE MEMOIRE SHOULD BE DELIVERED PRIOR THAT DATE.

2. BEGIN TEXT: -

IN RECENT MONTHS, THE PATENT OFFICE OF THE REPUBLIC OF CHINA HAS BEEN ISSUING REJECTIONS OF PATENTABILITY OF USE

INVENTIONS AND COMPOSITIONS INVOLVING CHEMICALS. ALTHOUGH

UNCLASSIFIED

UNCLASSIFIED

PAGE 02 STATE 100083

INVENTIONS OF THIS TYPE HAVE BEEN PATENTABLE IN THE PAST, THE NATIONAL BUREAU OF STANDARDS IS NOW BASING ITS

REJECTION ON THE CONSIDERATION THAT COMPOUNDS INHERENTLY POSSESS CERTAIN CHARACTERISTICS AND THAT THE APPLICANT HAS

ONLY DISCOVERED THESE CHARACTERISTICS AND APPLIED THEM. UP TO NOW, REJECTION OF SUCH CLAIMS HAS BEEN REVERSED BY THE MINISTRY OF ECONOMIC AFFAIRS. HOWEVER, WE UNDERSTAND THAT IN THE NEAR FUTURE SUCH REJECTIONS WILL BE UPHOLD AND ALL NEW APPLICATIONS INVOLVING CHEMICALS WILL BE RESTRICTED TO CLAIMS FOR A PROCESS FOR MANUFACTURING THE CHEMICAL.

3. THIS CHANGE IN TAIWAN PATENT POLICY ON CHEMICALS IS SURPRISING IN VIEW OF THE IMPORTANT ROLE THAT CHEMICALS IN GENERAL AND AGRICULTURAL CHEMICALS IN PARTICULAR HAVE HAD IN TAIWAN'S ECONOMIC AND TECHNICAL DEVELOPMENT. ACCORDING TO THE U.S. DEPARTMENT OF AGRICULTURE, TAIWAN'S AGRICULTURAL YIELDS HAVE BECOME AMONG THE HIGHEST IN THE WORLD DURING THE LAST 30 YEARS. WE BELIEVE THIS SUCCESS IS LARGELY DUE TO THE EXTENSIVE USE OF AGRICULTURAL CHEMICALS. THIS STRONG AGRICULTURE SECTOR HAS IN TURN PROVIDED THE BASIS FOR RAPID INDUSTRIALIZATION. HOWEVER, RELATIVE TO DEVELOPED NATIONS, AGRICULTURAL PRODUCTION AND EMPLOYMENT ARE STILL MAJOR SEGMENTS OF THE TAIWAN ECONOMY.

4. ACCORDING TO THE UNITED NATIONS FOOD AND AGRICULTURAL ORGANIZATION (FAO), FOOD SUPPLIES WILL HAVE TO BE DOUBLED IN THE NEXT 30 YEARS TO ACHIEVE EVEN A MODERATE ADVANCE IN NUTRITIONAL STANDARDS. THE FAO HAS ALSO INDICATED THAT GREATLY INCREASED USE OF AGRICULTURAL CHEMICALS, PARTICULARLY PESTICIDES, IS AMONG THE MEASURES ESSENTIAL FOR ACHIEVING THE MASSIVE EXPANSION NEEDED IN FOOD PRODUCTION. USE OF AGRICULTURAL CHEMICALS IS ALREADY CONSIDERED TO BE ONE OF THE MAIN ROUTES TO ELIMINATING LOSSES FROM PESTS WHICH DESTROY CROPS DURING GROWTH, HARVEST AND STORAGE.

5. THE HIGH LEVEL OF AGRICULTURAL TECHNOLOGY THAT EXISTS IN TAIWAN TODAY WAS BROUGHT ABOUT AT LEAST PARTLY  
UNCLASSIFIED  
UNCLASSIFIED

PAGE 03 STATE 100083

BY THE TRANSFER OF TECHNOLOGY, ESPECIALLY PESTICIDES, FROM DEVELOPED COUNTRIES. THIS TRANSFER WAS PRIMARILY CONDUCTED BY BUSINESS FIRMS AND WAS AN EXTREMELY COSTLY AND TIME CONSUMING EFFORT. IT REQUIRES HIGHLY TRAINED AND QUALIFIED PEOPLE, PLUS TIME AND MONEY TO DEVELOP A PESTICIDE MEETING A COUNTRY'S SPECIFIC NEEDS.

6. A RECENT REPORT PREPARED BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY (REPORT NUMBER 540/9-75-018, DATED FEBRUARY, 1975) BROUGHT OUT SOME VERY INTERESTING

FIGURES ON COMMERCIAL DEVELOPMENT OF AGRICULTURAL

CHEMICALS. THE TIME ELAPSED FROM DISCOVERY TO MARKETING IS ABOUT 80 MONTHS BASED ON 1973 STATISTICS. THE COST TO A NEW COMPANY ENTERING THE PESTICIDE BUSINESS IS ESTIMATED AT OVER DOLS 7 MILLION TO DEVELOP THE FIRST PESTICIDE; AND A TOTAL OF DOLS 50 MILLION TO COMMERCIALIZE THE FIRST SUCCESSFUL PRODUCT. AS MUCH AS 10 YEARS CAN ELAPSE BEFORE THE RETURN ON AN INVESTMENT IS REALIZED, COVERING THE PERIOD FROM DISCOVERY THROUGH TESTING, REGISTRATION, PLANT CONSTRUCTION AND INITIAL MARKETING EFFORTS.

7. IN VIEW OF THE TIME AND EXPENSE INVOLVED IN DEVELOPING AND COMMERCIALIZING AGRICULTURAL CHEMICALS, CAREFUL CONSIDERATION IS GIVEN BEFORE A FIELD DEVELOPMENT EFFORT IS

INITIATED. SUCH LOCAL FIELD DEVELOPMENT EFFORTS ARE A PREREQUISITE FOR LABEL REGISTRATION AND COMMERCIALIZATION IN TAIWAN, WHOSE LAWS IN THIS RESPECT ARE SIMILAR TO THOSE OF THE U.S. ONE OF THE FACTORS CONSIDERED IS THE EXISTANCE AND STRENGTH OF THE PATENT SYSTEM; AND, OF COURSE, WHETHER MEANINGFUL COVERAGE IS AVAILABLE FOR AGRICULTURAL CHEMICAL INVENTIONS.

8. ANY CHANGE IN THE PATENT LAW WHICH ABOLISHES OR DIMINISHES THE PATENT PROTECTION AVAILABLE LOWERS THE DEVELOPERS' INCENTIVE TO COMMERCIALIZE HIS PRODUCT IN TAIWAN; ESPECIALLY IN VIEW OF THE FACT THAT ONCE A LABEL

REGISTRATION IS OBTAINED IT IS A SIMPLE AND INEXPENSIVE  
UNCLASSIFIED  
UNCLASSIFIED

PAGE 04 STATE 100083

PROCEDURE FOR OTHERS TO OBTAIN A LABEL REGISTRATION ON THE SAME CHEMICAL.

9. WE BELIEVE THAT THE ROC HAS SIGNIFICANTLY BENEFITED FROM ITS EXISTING PATENT POLICY ON AGRICULTURAL CHEMICALS WHICH PROVIDES INCENTIVES FOR CHEMICAL COMPANIES TO DEVELOP PROCESSES AND USES ESPECIALLY SUITED TO THE CONDITIONS FOUND IN TAIWAN. DEVELOPMENT OF THESE PROCESSES AND USES HAS BEEN PROFITABLE BOTH TO THE FIRMS INVOLVED AND TO TAIWAN'S AGRICULTURAL SECTOR. THEREFORE, THE U.S. GOVERNMENT URGES THAT THE GOVERNMENT OF THE REPUBLIC OF CHINA NOT IMPLEMENT NEW POLICIES WHICH MAY DIMINISH SUCH INCENTIVES. END TEXT.

10. FYI: OUR INFORMATION INDICATES THAT ECONOMIC AFFAIRS MINISTER SUN HAS ALREADY APPROVED THE PROPOSED CHANGE AND THAT THERE IS ALMOST NO HOPE OF A REVERSAL. AIDE MEMOIRE COULD AS A MINIMUM, HOWEVER, RESULT IN MORE FAVORABLE

INTERPRETATION OF THE NEW POLICY. THE EMBASSY MAY MAKE ANY

CHANGES OR ADDITIONS TO THE AIDE MEMOIRE WHICH ARE CON-  
SIDERED DESIRABLE FOR TACTICAL PURPOSES. THE DEPARTMENT  
SHOULD BE ADVISED OF ANY SUCH CHANGES AND ANY REACTION  
BY THE GROC. SISCO

UNCLASSIFIED

NNN

## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01 JAN 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** AGRICULTURAL DEVELOPMENT, POLICIES, AIDE MEMOIRE, PATENT LAW, CHEMICALS  
**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 24 APR 1976  
**Decaption Date:** 01 JAN 1960  
**Decaption Note:**  
**Disposition Action:** n/a  
**Disposition Approved on Date:**  
**Disposition Authority:** n/a  
**Disposition Case Number:** n/a  
**Disposition Comment:**  
**Disposition Date:** 01 JAN 1960  
**Disposition Event:**  
**Disposition History:** n/a  
**Disposition Reason:**  
**Disposition Remarks:**  
**Document Number:** 1976STATE100083  
**Document Source:** CORE  
**Document Unique ID:** 00  
**Drafter:** LSALLAN:CEK  
**Enclosure:** n/a  
**Executive Order:** N/A  
**Errors:** N/A  
**Film Number:** D760157-0214  
**From:** STATE  
**Handling Restrictions:** n/a  
**Image Path:**  
**ISecure:** 1  
**Legacy Key:** link1976/newtext/t19760425/aaaaauvl.tel  
**Line Count:** 175  
**Locator:** TEXT ON-LINE, ON MICROFILM  
**Office:** ORIGIN EB  
**Original Classification:** UNCLASSIFIED  
**Original Handling Restrictions:** n/a  
**Original Previous Classification:** n/a  
**Original Previous Handling Restrictions:** n/a  
**Page Count:** 4  
**Previous Channel Indicators:** n/a  
**Previous Classification:** n/a  
**Previous Handling Restrictions:** n/a  
**Reference:** 76 TAIPEI 2167, 76 STATE 89496  
**Review Action:** RELEASED, APPROVED  
**Review Authority:** buchant0  
**Review Comment:** n/a  
**Review Content Flags:**  
**Review Date:** 27 AUG 2004  
**Review Event:**  
**Review Exemptions:** n/a  
**Review History:** RELEASED <27 AUG 2004 by cookms>; APPROVED <15 DEC 2004 by buchant0>  
**Review Markings:**

Margaret P. Grafeld  
Declassified/Released  
US Department of State  
EO Systematic Review  
04 MAY 2006

**Review Media Identifier:**  
**Review Referrals:** n/a  
**Review Release Date:** n/a  
**Review Release Event:** n/a  
**Review Transfer Date:**  
**Review Withdrawn Fields:** n/a  
**Secure:** OPEN  
**Status:** NATIVE  
**Subject:** PROPOSED CHANGE IN PATENT POLICY ON CHEMICALS  
**TAGS:** EINV, EAGR, TW, US  
**To:** TAIPEI  
**Type:** TE  
**Markings:** Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006